

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT

No. 03-2329

SAC & FOX TRIBE OF THE *
MISSISSIPPI IN IOWA; ALEX *
WALKER, JR.; FRANK WANATEE, *
JR.; LYLE WALKER; AARON *
WALKER; CALVIN JOHNSON, *
SR.; VERN JEFFERSON; TALBERT *
DAVENPORT, SR.; *

Plaintiffs - Appellants *

v. *

HOMER BEAR, JR.; WAYNE *
PUSHETONEQUA; HARVEY *
DAVENPORT, JR.; RAY A. YOUNG *
BEAR; FRANK BLACK CLOUD; *
KEITH DAVENPORT; KEITH *
WARD; WELLS FARGO BANK *
IOWA, N.A.; STATE BANK OF *
TOLEDO; HOME FEDERAL *
SAVINGS BANK *

Defendants - Appellees.

ORDER

No. 03-2355

SAC & FOX TRIBE OF THE *
MISSISSIPPI IN IOWA, a federally *
recognized Indian Tribe; HOMER *
BEAR, JR., Individually and *
as Chairman of the appointed *
Tribal Council of Sac & Fox *
Tribe of the Mississippi in Iowa; *

Plaintiffs - Appellants *

MESKWAKI BINGO CASINO *
HOTEL, a Subordinate Enterprise *
of the Sac & Fox Tribe of the *
Mississippi in Iowa; *

Plaintiff *

RENETTA PLANDER, Individually *
and as the Acting General Manager *
and Casino Manager of Meskwaki *
Bingo Casino Hotel, a subordinate *
enterprise of the Sac & Fox Tribe *
of the Mississippi in Iowa *

Plaintiffs - Appellants *

v. *

UNITED STATES OF AMERICA; *
PHILIP N. HOGEN, Individually *
and as Chairman of the National *

Indian Gaming Commission; *

*

Defendants - Appellees *

*

SAC & FOX TRIBE OF THE *

MISSISSIPPI IN IOWA, a federally *

recognized Indian Tribe; THE *

FEDERALLY RECOGNIZED *

TRIBAL COUNCIL OF THE SAC *

& FOX TRIBE OF THE *

MISSISSIPPI IN IOWA; *

ALEXANDER WALKER, JR., *

as Chairman of the Federally *

Recognized Tribal Council of the *

Sac & Fox Tribe of the Mississippi *

in Iowa; *

*

Intervenors Below - Appellees *

*

HOMER BEAR, JR.; WAYNE *

PUSHETONEQUA; HARVEY *

DAVENPORT, JR.; RAY A. YOUNG *

BEAR; FRANK BLACK CLOUD; *

KEITH DAVENPORT; DERON *

WARD *

*

Cross Defendants. *

*

No. 03-2357

UNITED STATES OF AMERICA, *

FOR THE NATIONAL INDIAN *

GAMING COMMISSION *

	*
Plaintiff - Appellee	*
	*
	*
v.	*
	*
ALEX WALKER, JR.;	*
	*
Defendant - Appellee	*
	*
HOMER BEAR, JR.;	*
	*
Defendant	*
	*
SAC & FOX TRIBE OF THE	*
MISSISSIPPI IN IOWA;	*
	*
Defendant - Appellant	*
	*
RENETTA PLANDER	*
	*
Defendant.	*

Before MURPHY, FAGG and MELLOY, Circuit Judges.

There are a number of matters currently pending before the court which will now be addressed in this Administrative Order.

1. Motion For Stay. The motion for stay pending appeal filed by the "Appointed Tribal Council" is denied. The court recognizes the serious economic impact the closure of the Mesqwaki Casino has upon the members of the Sac and

Fox tribe, the casino employees, and Tama/Toledo community. To that end, the court is appointing Iowa Northern District Chief Magistrate Judge John A. Jarvey as mediator. Chief Magistrate Judge Jarvey is to meet with the parties on an expedited basis to mediate this dispute. Chief Magistrate Judge Jarvey is specifically directed to discuss with the parties all possible resolutions, including the possibility of the appointment of a third party trustee or management company to operate the casino while the inter-tribal dispute is resolved. The parties are directed to cooperate with Chief Magistrate Judge Jarvey in setting up a mediation session and having representatives with authority to discuss and settle this dispute available for mediation. Chief Magistrate Judge Jarvey is to report to this court when the mediation is concluded. This court retains jurisdiction to enter an appropriate order if an agreement is reached.

2. Motion To Expedite. The motion to expedite resolution of the pending motions and motion to expedite appeal is granted. The clerk is directed to set a briefing schedule that will allow for the final reply briefs to be filed by no later than July 3, 2003. The court anticipates setting oral arguments by separate notice for a date shortly thereafter.

3. Motion To Consolidate. The court defers ruling on the motion to consolidate. Upon receipt of the briefs, the court will make a decision at that time

as to whether to consolidate the various appeals pending in case Nos. 02-2329, 03-2355, and 03-2357. The clerk is directed to set simultaneous briefing in all three appeals.

4. Motion To Disqualify. The request to file the motion to disqualify under seal is denied. The BlueDog, Olson & Small, P.L.L.P. law firm and its individual attorneys, the law firm of Lynch, Dallas, P.C., and its individual attorneys, and the firm of Parrish, Kruidenier, Moss, Dunn, Boles, Gribble & Cook, LLP, and its individual attorneys shall file a response to the motion to disqualify by the close of business on Monday, June 2, 2003. The court notes, parenthetically, that while it is important to determine if a law firm has a conflict of interest or for some other reason should be disqualified, ancillary litigation over issues such as disqualification will make it extremely difficult for the parties to meet an expedited briefing schedule and for this court to resolve the pending appeals promptly.

Dated: May 29, 2003

Order Entered at the Direction of the Court:

Clerk, U.S. Court of Appeals, Eighth Circuit